U.S. Department of Homeland Security
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Washington, DC 20529

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U.S. Citizenship and Immigration Services

B5

PUBLIC COPY

[redacted]

FILE: WAC 05 072 52832 Office: CALIFORNIA SERVICE CENTER Date: AUG 29 2006

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Mari Johnson

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part, "[a]n officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal."

On the Form I-290B Notice of Appeal, filed on October 14, 2005, the petitioner indicated that he was "not submitting a separate brief or evidence." Therefore, the Form I-290B itself constitutes the entirety of the original appeal.

The statement on the appeal form reads: "The USCIS misapplied the legal standards set for[th] in the NYSDOT case. I therefore appeal the decision. Please review this case and apply the NYSDOT criteria properly." NYSDOT is an acronym for a precedent decision, *Matter of New York State Dept. of Transportation*, 22 I&N Dec. 215 (Comm. 1998). The petitioner does not, however, explain how the director's decision was at variance with that precedent decision. This is a general statement that makes no specific allegation of error. The bare assertion that the director somehow erred in rendering the decision is not sufficient basis for a substantive appeal.

As noted above, the petitioner originally indicated that he would not supplement the appeal. Nevertheless, six months later, the petitioner submitted a list of "changes since the application was appealed." Pursuant to 8 C.F.R. § 103.3(a)(2)(vii), the AAO is not required to accept untimely supplements to appeals. Rather, the petitioner must, in advance, demonstrate that good cause exists for an extension of time. In this instance, the petitioner did not show good cause, and the initial appeal contained no indication at all that the petitioner would need six months to supplement the appeal. The filing of an appeal does not secure for the petitioner an open-ended or indefinite period in which to supplement the record at will.

The new submission is a list of recent activities by the petitioner, such as the publication of papers and participation in a joint working group. The petitioner acknowledges that these developments took place "since the application was appealed." Such subsequent developments cannot form the basis of a substantive appeal. A petitioner may not make material changes to a petition that has already been filed in an effort to make an apparently deficient petition conform to CIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169 (Comm. 1998), and *Matter of Katigbak*, 14 I&N Dec. 45 (Reg. Comm. 1971), which require that beneficiaries seeking employment-based immigrant classification must possess the necessary qualifications as of the filing date of the visa petition. If the petitioner believes that these developments qualify him for the benefit sought (and he does not explain why this is so), then the appropriate course of action would be to file a new petition. They cannot retroactively demonstrate that he was already eligible in January 2005, when he filed the petition.

Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the appeal must be summarily dismissed.

ORDER: The appeal is dismissed.